

***Response to Amendment***

Amendment received on 09/23/2008 is acknowledged and entered. Claims 1, 2, 4, 7, 11-13, 27, 31-34, 36, 39, 42, 43, 58, 59, 61-63 have previously been canceled. Claims 3, 5, 6, 8-10, 14-26, 28-30, 35, 37, 38, 40, 41, 44-57, 60, 64 and 65 are currently pending in the application.

**EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a personal interview with an applicant's representative Joseph D. Kuborn (Reg. No.: 40,689) on Friday, November 7, 2008. During the interview possible changes to claim language were discussed in order to clarify patentable subject matter and avoid issues under 35 USC 112 and 101. Agreed that the combined teaching of prior art does not teach the inventive features as currently recited in the amended claims. Finally, the Representative gave authorization for the Examiner Amendment to amend the claims and, thereby, place the claims into the condition of allowance.

The application has been amended as follows:

**IN THE CLAIMS**

41. (Currently amended) A system, as set forth in claim 6[[3]]5, wherein each device has an associated node for allowing the customer to control one or more of the devices through the associated node.

64. (Currently amended) A method for providing a consumption management system to a plurality of customers of a utility of a commodity that allows the utility to manage demand for the commodity, wherein the utility delivers the commodity to a plurality of customer sites each having a plurality of devices that use the commodity, wherein each device is equipped to determine the instantaneous rate at which the commodity is being delivered to the device, the method comprising the steps of:

allowing each customer to individually subscribe to one or more of a plurality of energy management programs defined by the utility, wherein the subscribed energy management program defines whether the subscribing customers can override the subscribed energy management program after activation;

measuring the instantaneous rate at which the commodity is being delivered to each device at the plurality of customer sites;

sending the instantaneous rate at which the commodity is being delivered to each device to the utility;

providing a device type indicator to the utility for each device, the device type indicator identifying the type of the device;

defining a subset of the devices in a computer at the utility, wherein the subset of devices includes devices of the same type in use by the subscribing customers;

determining in the computer at the utility, in real time, the capacity of an aggregated demand for the commodity that can be managed for the subset of devices by aggregating the instantaneous rate of commodity consumption for the subset of devices, wherein the determining step is conducted before activating the subscribed energy management program for the subset of devices[.];  
~~wherein the subscribed energy management program defines whether the subscribing customers can override the subscribed energy management program after activation;~~

comparing in the computer at the utility, in real time, the total demand for the commodity with a threshold capacity determined by the utility, wherein the total demand includes the aggregated instantaneous rate;

activating at least one of the subscribed energy management programs when the total demand for the commodity from the utility approaches a threshold capacity determined by the utility, wherein activation of the subscribed energy management program adjusts operational settings for each device of the subset of devices to reduce consumption of the commodity by the subset of devices;

verifying in the computer at the utility, in real time, an achieved reduction in the instantaneous rate at which the commodity is being delivered to ~~each device~~ of the subset of devices following activation of the subscribed energy management program, wherein the verifying step comprises determining whether the activation of the energy management program reduced the total demand for the commodity from the utility;

wherein the activating step further comprises:

if permitted by the subscribed energy management program, overriding the adjusted operational settings for each device during activation of the subscribed energy management program upon request by the subscribing customer;

if not permitted by the subscribed energy management program, preventing the override of the adjusted operational settings for each device during activation of the subscribed energy management program upon request by the subscribing customer; and

providing an incentive, such incentive including at least one of a fixed billing adjustment, a proportionally scaled billing adjustment, an incentive rate, and a rebate, to each subscribing customer based on the verification of the achieved actual reduction in the rate the commodity is delivered to each device of the subset of devices ~~the customer site~~ following activation of the subscribed energy management program.

65. (Currently amended) A system for allowing a utility to selectively reduce the consumption of a commodity, the commodity being delivered to a plurality of customer sites by the utility, wherein each customer site has a plurality of devices that use the commodity, the system comprising:

- a plurality of devices positioned at each of the plurality of customer sites, each of the devices being equipped to determine the instantaneous rate of commodity consumption at the device and provide a device type indicator identifying a type of the device;

- a distribution network coupled to the plurality of devices at the plurality of customer sites for delivering the commodity to the plurality of devices;

- a control system coupled to the distribution network for controlling the delivery of the commodity over the distribution network to the plurality of devices, the control system including at least one computer;

- a computer network configured to provide communication between the control system and the plurality of devices;

- wherein the control system is configured to:

- allow each of the customers to individually subscribe to one or more energy management programs defined by the utility;

- receive the instantaneous rate at which the commodity is being delivered to each device at the plurality of customer sites, the instantaneous rate being sent by each of the devices;

- receive the device type indicator from each of the devices;

- define a subset of the devices at the utility, wherein the subset of devices includes devices of the same type in use by the subscribing customers;

- determine at the utility, in real time, ~~the capacity of an aggregated demand for~~ the capacity of an aggregated demand for the commodity that can be managed for the subset of devices by activating the subscribed energy management program for the subset of devices, wherein the aggregated demand is determined before activation of the subscribed energy management program by aggregating

the instantaneous rate of commodity consumption for the subset of devices;

define in the subscribed energy management program whether subscribing customers can override the energy management program after activation;

compare, in real time, the total demand for the commodity with a threshold capacity determined by the utility, wherein the total demand includes the aggregated instantaneous rate of commodity consumption for the subset of devices;

activate the subscribed energy management program for the subset of devices at the utility when the total demand for the commodity approaches a maximum threshold for the utility, wherein activation of the energy management program adjusts operational settings for each device of the subset of devices to reduce consumption of the commodity by the subset of devices;

verify at the utility, in real time, an achieved reduction in the instantaneous rate at which the commodity is being delivered to ~~each device of~~ the subset of devices following activation of the subscribed energy management program to determine whether the activation of the energy management program reduced the total demand for the commodity from the utility;

if permitted by the subscribed energy management program, override the adjusted operational settings for each device during activation of the subscribed energy management program upon request by the subscribing customer;

if not permitted by the subscribed energy management program, prevent the override of the adjusted operational settings for each device during activation of the subscribed energy management program upon request by the subscribing customer; and

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provide an incentive, such incentive including at least one of a fixed billing adjustment, a proportionally scaled billing adjustment, an incentive rate, and a rebate, to each of the subscribing customers based on the verification of the actual capacity of the commodity managed at the customer site by activation of the subscribed energy management program.

**Allowable Subject Matter**

Claims 3, 5, 6, 8-10, 14-26, 28-30, 35, 37, 38, 40, 41, 44-57, 60, 64 and 65 are allowed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submission should be clearly labeled "Comments on Statement of Reason for Allowance".

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Igor Borissov whose telephone number is 571-272-6801. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Igor N. Borissov/

Primary Examiner, Art Unit 3628

11/07/2008